

THIS IS A SAMPLE CONTRACT FORM. THE ACTUAL CONTRACT MAY OR MAY NOT CONTAIN THE PROVISIONS HEREIN, DEPENDING ON THE SCOPE OF SERVICES.

Resolution No. _____
_____, 20__

Contract No. _____

LANDSCAPE ARCHITECT'S CONTRACT
FOR

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

KNOW ALL MEN BY THESE PRESENTS:

THIS CONTRACT is made and entered into as of the ___ day of _____, 20__, by and between the CITY OF DALLAS, a municipal corporation of Dallas County, Texas (hereinafter called "City", which term shall be construed to include any officer, representative, or Board of the City having authority to represent or act for it, in relation to any part of the subject of this Contract), and

_____, with offices located at _____, Dallas, Texas 752__ (hereinafter called "Landscape Architect").

WITNESSETH:

WHEREAS, City intends to construct

_____, hereinafter called the "Project", at a total budgeted construction cost not to exceed \$_____ for the completion of the Project, and total compensation for Landscape Architect's services not to exceed \$_____, subject to appropriations, which includes an allowance for Reimbursable Expenses not to exceed \$_____, as further described in this Contract; and

WHEREAS, City desires to contract with Landscape Architect for complete architectural and engineering services in connection with design and construction of the Project, and for the administration of the Construction Contract during construction of the Project, all as stipulated in this Contract and within the budgeted limits set by City; and

WHEREAS, Landscape Architect has agreed to provide such professional services for the compensation provided in this Contract.

NOW, THEREFORE, City and Landscape Architect, in consideration of the mutual promises, terms, covenants and conditions contained in this Contract, agree as follows:

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SCOPE OF SERVICES; COMPENSATION; CONTRACT ADMINISTRATION

A. Landscape Architect, as an independent contractor and professional consultant in its relationship with City, agrees to perform all professional services for the Project as set forth in this Contract and in Landscape Architect's Proposal Letter to City, dated _____, 20__, attached to and made a part of this Contract as **Exhibit A**; provided, however, that in the event of any conflict between the terms of the Proposal Letter and this Contract, the terms of this Contract shall control.

B. City shall compensate Landscape Architect in accordance with the terms and conditions of this Contract as follows:

1. For Landscape Architect's Basic Services, including the services of any professional consultants engaged for complete architectural services and complete structural, mechanical, electrical and civil engineering services, a maximum Basic Fee not to exceed \$_____.
2. For Landscape Architect's additional services, including re-platting and survey, a fee not to exceed \$___ *or*
3. For Landscape Architect's Additional Services, if any be authorized in advance by City as hereinafter provided, a supplemental fee to be computed as follows:
 - (a) Principal's time at a fixed rate of \$___ per hour. For purposes of this Contract, the Principal is:

 - (b) Employees' time shall be paid at the following agreed rates:

Project Manager	\$___ per hour
Project Architect	\$___ per hour
Draftsman	\$___ per hour
Secretary	\$___ per hour
 - (c) Additional Services of Basic Consultants (including structural, mechanical, electrical, and civil engineering) shall be computed at 1.10 times the amounts billed to Landscape Architect. Additional Services of Special Consultants shall be computed at 1.10 times the amount billed Landscape Architect for such services.
4. Unless subsequently changed by Supplemental Agreement to this Contract, duly authorized by City Council Resolution (or by Administrative Action where delegated by City ordinance), Landscape Architect's total compensation under this Contract for Basic Services shall not exceed \$_____, plus a not-to-exceed amount of \$_____ for approved Reimbursable Expenses. These amounts, totaling \$_____, represent the absolute limit of City's

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liability to Landscape Architect under this Contract, unless the limit is changed by Supplemental Agreement to this Contract.

5. The times and further conditions of payment shall be as described in Article 5 below.

C. This Contract shall be administered on behalf of City by its Director of _____, or Director's designee (hereinafter called the "Director"), and by Landscape Architect through its duly designated and authorized representatives. Landscape Architect shall fully comply with any and all instructions from the Director. Any dispute between Landscape Architect and City or need for interpretation regarding what performance is required of Landscape Architect under this Contract shall be submitted to the Director, and the Director's decision in the matter shall be final and binding.

ARTICLE I
ARCHITECT'S SERVICES

1.1. Basic Services

A. Landscape Architect's Basic Services consist generally of the five phases described below, and include complete architectural services and complete structural, mechanical, electrical and civil engineering services, and such other services as may be necessary to assist the City in the design and construction of the Project, within the budgeted limits set by City has, and in compliance with the Project Facility Program and the Design Standards for City Buildings, which are hereby made a part of this Contract for all purposes. All services set out in Landscape Architect's Proposal Letter are to be performed whether specifically set out in this Contract or not. Landscape Architect agrees that upon execution of this Contract, it will submit to City within ten (10) days a list of all additional consultants it intends to utilize, not previously identified in Landscape Architect's Proposal Letter, delineating their respective tasks. All of Landscape Architect's subconsultants shall be subject to the approval of City through its Director of _____, and City reserves the right to reject any subconsultant. Landscape Architect shall perform all work under this Contract in a manner satisfactory and acceptable to City, represented by its Director of _____ or Director's designee, hereinafter referred to as "Director." Landscape Architect's Final Plans and Specifications shall include plans and profiles necessary to tie all Project water, sewer and storm drainage lines into adjacent existing lines and facilities, as authorized and approved by Director. A Performance Schedule shall be agreed to by Landscape Architect and Director, and Landscape Architect agrees to use its best efforts to complete all services under this Contract in accordance with the Performance Schedule, which Schedule shall be automatically incorporated into this Contract by reference upon agreement of Landscape Architect and the Director without need of a Supplemental Agreement. All services shall be performed to the highest professional standard.

B. City has developed an Environmental Management System (EMS), based upon International Standards Organization (ISO) Standard 14001. As part of the EMS, City has adopted an environmental policy. Landscape Architect acknowledges receipt of the

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environmental policy as a part of the Request for Proposal and shall adhere to the policy and provide information to City in the form and at the times requested by City in furtherance of the policy.

C. Landscape Architect and its Subconsultants are deemed to have made themselves familiar with and at all times shall comply with the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) standards, as well as any and all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project. City is committed to the construction of facilities that are friendly to the environment and that maximize energy-efficiency wherever possible. All design work under this Contract for the Project shall conform to applicable LEED standards, resulting in a constructed Project that achieves LEED certification.

Schematic Design Phase

1.1.1. Landscape Architect shall consult with City to clarify the requirements of the Facility Program for the Project and shall the make the Schematic Design conform to the Facility Program requirements.

1.1.2. Landscape Architect shall survey and evaluate those environmental conditions in the immediate vicinity of the Project site which may influence the design of the Project. Landscape Architect shall, for consideration and approval by the Director, prepare the Schematic Design Studies and submit to the Director a sufficient number (as determined by the Director) of copies of drawings and other documents which illustrate the scale and relationship of the Project components within the time allotted under the agreed Performance Schedule.

1.1.3. Landscape Architect shall submit to City a Statement of Probable Construction Cost based on current area, volume or other unit costs in a form acceptable to the Director.

1.1.4. Landscape Architect will make recommendations to City where a conflict may exist between the established Project Budget and the Facility Program. The recommendations will provide for adjustments to enable construction of the facility within the budget and during the forecast period that the Project will be bid.

1.1.5. Landscape Architect shall submit outline specifications for all major elements of construction including but not limited to: structural, mechanical and electrical systems, special equipment.

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1.1.6. After approval of the Schematic Design documents by the Director, Landscape Architect will submit a Statement, in triplicate, for services rendered for the unpaid balance of the Basic Fee, not to exceed fifteen (15%) percent of the Basic Fee, as authorized under Article 5.1.

Design Development Phase

1.1.7. Landscape Architect shall prepare Design Development Documents based on the approved Schematic Design Documents to include adequate Specifications for elements of the Project for consideration and approval by the Director. A sufficient number of copies (as determined by the Director) of the Design Development Documents will be submitted to the Director for distribution, each copy consisting of drawings and other documents to fix and describe the size, cross sections and character of the Project as to architectural, structural, mechanical and electrical systems, materials, and such other essentials as may be necessary and appropriate. The Design Development Phase shall be completed within the agreed Performance Schedule.

1.1.8. Landscape Architect shall submit to City a Revised Statement of Probable Construction Cost in a form acceptable to the Director. Any variance in the estimated construction costs that will adversely affect the established Project Budget will be submitted to the Director with appropriate comments and recommendations prior to beginning the Construction Documents Phase.

1.1.9. After approval of the Design Development Documents by the Director, the Landscape Architect will submit a Statement, in triplicate, for services rendered for the unpaid balance of the Basic Fee, not to exceed thirty-five (35%) percent of the Basic Fee, as authorized under Article 5.1.

Construction Documents Phase

1.1.10. Landscape Architect shall prepare from the approved Design Development Documents, for consideration and approval by the Director, complete Working Drawings and Specifications. The Working Drawings and Specifications shall set forth in complete detail the requirements of the entire Project, including the necessary bidding information prepared in such a way to allow City, if it so desires, to advertise for the award of one or more contracts for the construction and completion of the entire Project, or any phase of the Project. Landscape Architect shall also assist City in preparation of the Bidding Forms, utilizing, without modification, all of City's standard General Conditions, and shall draft all special provisions or conditions of the Contract Documents subject to the approval of the Director. The latest edition of the City of Dallas General Conditions for Building Construction shall be used by Landscape Architect without modification. City may, however, upon prior consultation, approve of any changes to the General Conditions that may be necessary for specific situations. Any special conditions pertaining to the Project that are approved by City will be included under the Special Conditions portion of the Construction Documents. City's standard form of construction contract between City and any Project construction contractor shall also be utilized without modification, along with City's forms of Bid Bond, Performance Bond and Payment Bond. Landscape Architect shall obtain the

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approval of the Texas Department of Licensing and Regulation prior to submittal of all Construction Documents to City for approval. Any fees charged by the Department for this approval shall be paid by Landscape Architect and billed to City as a reimbursable expense under Article 4 of this Contract.

1.1.11. Landscape Architect shall furnish City in writing a revised Statement of Probable Construction Cost, indicating cost changes resulting from changes in Project requirements or general market conditions, in a form acceptable to the Director.

1.1.12. Following approval by the Director of the Design Development Documents, Landscape Architect shall, within the agreed Performance Schedule, submit five (5) complete sets of proposed Construction Documents to the Director for review and official approval prior to the advertisement of bids for construction of the Project. Following approval of proposed Construction Documents, Landscape Architect shall prepare and have on hand ten (10) additional sets at Landscape Architect's expense for bidding purposes. Should additional sets of Construction Documents be required or requested by the Director, Landscape Architect will be reimbursed for the actual cost of reproduction, upon approval in advance by City. At the same time, Landscape Architect shall also file with the Director the following items:

- (a) Tracing of the Project Title Sheet, signed by Landscape Architect, with seal affixed. (This tracing shall be returned to Landscape Architect to print contract documents when the signatures of City officials have been properly affixed).
- (b) Two (2) copies of detailed cost estimates in a form acceptable to City.
- (c) Two (2) bound copies of the approved Project Construction Manual. The Project Construction Manual shall include the General Conditions, Specifications and Special Provisions, Advertisement, Instructions to Bidders and Bid Proposal Form, City's Bid Bond, Contract, Performance and Payment Bond Forms, approved Wage Rate schedules, Federal regulations (if any are applicable to the Project), and other required documents for construction of the Project. Should additional bound copies of the Project Construction Manual be required or requested by the Director, Landscape Architect will be reimbursed for the actual cost of reproduction, upon approval in advance by City.

Bidding Phase

1.1.13. Following City's approval of the Construction Documents and of the latest Statement of Probable Construction Cost, Landscape Architect shall assist City in awarding a construction contract following legal public bid requirements. During the bid process, Landscape Architect shall assist City as follows:

- (a) Jointly conducting pre-bid conferences, including on-site visits as required, to endeavor to assure that bidders understand the Construction

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Documents, the various on-site conditions, and the coordination and scheduling requirements.

- (b) Preparation of required addenda to Contract Documents.
- (c) Tabulation and evaluation of bids received.
- (d) Jointly conducting pre-award conferences where necessary.

Landscape Architect's assistance to City shall include submitting written reviews and recommendations for awards based upon the acceptability of bids; and, if required by City, more detailed analyses of specific bids. Reviews shall also consider the responsiveness of bids and their conformity with Bid Documents.

1.1.14. Upon award of the Construction Contract, a statement, in triplicate, for services rendered for the unpaid balance of the Basic Fee, not to exceed eighty (80%) percent of the Basic Fee as authorized under Article 5.1, shall be submitted to the Director for payment.

Construction Phase - Administration of the Construction Contract(s)

1.1.15. The Construction Phase will commence with the award of the first Construction Contract and will terminate following the final one-year warranty inspection of the completed Project, correction of all defects in Project materials and workmanship, and resolution of all Project-related claims and disputes.

1.1.16. Landscape Architect shall provide administration of the Construction Contract as set forth in the Construction Documents, specifically the General Conditions. Landscape Architect's assigned authority under the General Conditions will not be substantially modified without Landscape Architect's written consent.

1.1.17. Landscape Architect, as a representative of the City, shall advise and consult with the Director and will keep the Director informed in writing regarding the progress of the Project, including but not limited to percentage of construction work completed on a monthly basis, during the Construction Phase. After issuance of the work order to any and all construction Contractors on the Project, all of City's instructions to its construction Contractors will be issued through Landscape Architect.

1.1.18. Landscape Architect shall provide, during construction, adequate and competent on-site construction observation, periodically visiting the site to the extent necessary to personally familiarize itself with the progress and quality of the work, and to determine if the work is proceeding in accordance with the Contract Documents. Landscape Architect shall not, however, be required to make continuous on-site inspections to check the work. Field Reports of each visit shall be prepared by Landscape Architect and submitted to the Director. Landscape Architect shall employ all reasonable measures to safeguard City against defects and deficiencies in the work of the Contractor. Landscape Architect shall not be responsible for the construction means, methods, techniques, sequences of procedures, nor for the safety precautions and programs

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employed in connection with the Project work. However, Landscape Architect will immediately inform Director whenever defects and deficiencies in the Project work are observed, or when any observed actions or omissions are undertaken by any Contractor or subcontractor which are not in the best interests of City or the Project.

1.1.19. Based on such observations at the site and on the Contractor's Application and Certificate for Payment, Landscape Architect shall determine, monthly, the amount owing to the Contractor and shall certify and forward the Contractor's Application and Certificate for Payment, to the Director for approval and payment. These certifications shall constitute a representation by Landscape Architect to City, based on observations at the site and other data comprising the application for payment, that the work has progressed to the point indicated; that to the best of Landscape Architect's knowledge, information and belief, the quality of the work is in accordance with the Contract Documents, (subject to an evaluation of the work as a functioning whole upon substantial completion, to the results of any subsequent tests required by the Contract Documents, to minor deviations from the Contract Documents, correctable prior to Project completion, and to any specific qualifications stated in the Certificate); and that the Contractor is entitled to payment in the amount certified.

1.1.20. Landscape Architect shall have authority to reject work which does not conform to the Contract Documents. Landscape Architect shall make recommendations on all claims and disputes of City or Contractor relating to the execution and progress of the work or the interpretation of the Contract Documents, based upon such review and analysis by Landscape Architect as may reasonably be required. In the event of litigation, where Landscape Architect is named as an additional party with City, assistance will include the availability of knowledgeable witnesses in the employ of Landscape Architect for expert testimony.

1.1.21. Landscape Architect shall use its best efforts to promptly review and approve or reject shop drawings, samples and other submissions of the contractor for conformance only with the design concept of the Project and with the information given in the Contract Documents. Landscape Architect shall establish and implement precise procedures, to be approved by the Director, for expediting the processing and approval of these submissions without delay. Prompt review by Landscape Architect of submissions is of prime importance to City and an absolute necessity under the time restraints of the Project.

1.1.22. Landscape Architect shall prepare Change Orders to the construction contract, in six (6) copies, after review and approval by City. **Each Change Order shall be specific and final as to prices and extensions of time, with no reservations or other provisions allowing for future additional money or time as a result of the particular changes identified and fully compensated in the Change Order.**

1.1.23. Landscape Architect shall conduct inspections to determine the dates of substantial completion and final completion, shall receive written guarantees and related documents assembled by the Contractor for submittal with the final Certificate of Payment, and shall prepare and present a final Certificate for Payment to the Director for City's approval and payment. In addition, Landscape Architect shall make an inspection of the Project at least thirty (30) days before the expiration of the one (1) year Warranty contained in the Contractor's Performance Bond.

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1.1.24. Landscape Architect shall conduct regularly scheduled progress meetings with City, each Contractor and major subcontractors. Minutes of all progress meetings shall be prepared by Landscape Architect with copies submitted to the Director.

1.1.25. Landscape Architect shall have authority to order minor changes in the construction work, consistent with the Contract Documents, and not involving an adjustment in the Contractor's bid price or an extension of the Project Schedule. Minor changes shall be accomplished by Field Order. In addition, Landscape Architect may issue written Field Orders which interpret the Plans and Specifications, with copies submitted to the Director.

1.1.26. Landscape Architect shall assemble and deliver to City a set of reproducible Record Construction Drawings showing significant changes in the work during the construction process and final location of mechanical and electrical service lines and outlets, based upon marked-up prints of drawings and other data furnished by the Contractor to Landscape Architect. Landscape Architect shall provide Record Construction Specifications which will identify the changes in the specifications on a sheet, which sheet will be inserted at the beginning of each section to which they pertain.

1.2. Project Representation Beyond Basic Services

In the event that circumstances should develop whereby continuous, full-time representation at the Project site is required, the conditions under which the representation shall be furnished and the Project representatives selected, employed and directed shall be governed by a written supplemental agreement between City and Landscape Architect.

1.3. Additional Services

Landscape Architect shall perform Additional Services, as requested by City, after a not-to-exceed amount has been mutually agreed upon in writing by Director and Landscape Architect. Where authorization is required, Landscape Architect shall not proceed until the appropriate City Council Resolution (or Administrative Action, where approval authority is delegated by City ordinance) for such Additional Services has been adopted. The following services are not covered under Article I, which defines and outlines Landscape Architect's Basic Services. If any of these Additional Services are authorized in writing by Director in advance of their performance, they shall be paid for in the manner agreed to at the time of authorization.

1.3.1. Preparing Change Orders and supporting data or revising previously approved plans when the changes in approved Plans and Specifications are required by City. If changes are required to be made because of error, oversight, clarification, discrepancy, or budget overruns in the work of Landscape Architect, City shall not be liable to compensate Landscape Architect for Additional Services or expenses in such connection.

1.3.2. Providing consultation concerning replacement of any Project work damaged by fire or other cause during construction, and furnishing professional services as may be required in

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connection with the replacement of such work, unless damage was the result of Landscape Architect's error.

1.3.3. Providing other extraordinary professional services over and above the Contract requirements, where required and requested by City, including extraordinary professional services which might result if City decides to "fast-track" the Project.

ARTICLE 2
CITY'S RESPONSIBILITIES

2.1. City shall have the following responsibilities under this Contract:

2.1.1. To provide full information regarding City's requirements for the Project.

2.1.2. To designate, when necessary, representatives authorized to act on City's behalf.

2.1.3. To examine documents submitted by Landscape Architect and render decisions pertaining thereto promptly, in order to avoid unreasonable delay in the orderly progress of Landscape Architect's work.

2.1.4. To observe the procedure of issuing orders to its Project Contractors only through Landscape Architect.

2.1.5. To furnish, or direct Landscape Architect to obtain at City's expense, a certified survey of the site, giving, as required, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, contours and other data pertaining to existing buildings or adjacent to the site, other improvements and trees, full information as to available service and utility lines, both public and private, and test borings, pits, reports and soil bearing values and other necessary operations for determining subsoil conditions.

2.1.6. To furnish, or pay for structural, mechanical, chemical, soil mechanics, and other laboratory tests, reports and inspections as required by law or the Contract Documents.

2.1.7. To furnish the building permit without charge (electrical, plumbing and other trade permits will be the responsibility of all Contractors on the Project; any charges which may be assessed for Dallas Water Utilities service connection fees will be paid by City and are not to be included by Landscape Architect in the Specifications for the Project).

2.2. City also agrees to provide Landscape Architect with items such as: the Project Facility Program and Design Standards for City Buildings; two (2) copies of the City of Dallas General Conditions for Building Construction; Instructions to Bidders and Bid Proposal Forms; Prevailing Wage Rate Schedules; Contract and Bond Forms; Bid Advertisement Form; and other information and materials as may be necessary and practicable for the orderly and expeditious process of the Project work and the awarding of any and all Construction Contracts for the

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Project. To the extent practicable, these documents shall all be utilized in the preparation of the Construction Documents.

2.3. Landscape Architect shall be entitled to reasonably rely on the accuracy of the services, information, surveys, reports and other materials which City shall furnish at its expense.

2.4. If City observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, it shall give prompt written notice thereof to Landscape Architect.

ARTICLE 3
FIXED LIMIT OF TOTAL BUDGETED CONSTRUCTION COST

3.1. The fixed limit of total Budgeted Construction Cost for this Project is \$_____. **This amount is established as a condition of this Contract, and shall provide the basis for Landscape Architect's design decisions.** Landscape Architect, in consultation with City, shall determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, and will make reasonable adjustments in the scope of the Project to bring it within the fixed limit. With the Director's approval, Landscape Architect may also include in the Contract Documents alternate bids to adjust the construction cost to the fixed limit. If the lowest responsible bid is within the fixed limit of total Budgeted Construction Cost for the Project, **or** the Landscape Architect's latest detailed estimate of Probable Construction Cost is still less than the fixed limit of total Budgeted Construction Cost for the Project, established as a condition of this Contract, City shall pay the Landscape Architect fees for Basic Services in accordance with this Contract.

3.2. If the lowest responsible bid exceeds the fixed limit (or, in the case of multiple construction contracts bid, its portion of the fixed limit) of total Budgeted Construction Cost for the Project, and as a result thereof, or otherwise, the latest estimate of Probable Construction Cost exceeds the fixed limit of total Budgeted Construction Cost for the Project stated in Section 3.1, established as a condition of this Contract, City, at its sole option, may either: (1) give written approval of an increase in the fixed limit, with no obligation to increase Landscape Architect's fee; (2) authorize rebidding within a reasonable time; or (3) cooperate in revising the Project scope and quality as required to reduce the Probable Construction Cost. In the case of (3), Landscape Architect, **without additional charge to City**, shall immediately modify the Drawings and Specifications as necessary to bring the Project cost within the fixed limit of total Budgeted Construction Cost, or within any higher fixed limit subsequently authorized by City. The providing of the service as described above shall be the limit of Landscape Architect's responsibility to bring the Project cost within the fixed limit of total Budgeted Construction Cost, and if Landscape Architect does so, Landscape Architect shall be entitled to its fees for Basic Services in accordance with this Contract.

ARTICLE 4
REIMBURSABLE EXPENSES

4.1 All Reimbursable Expenses are included in the fees for Basic Services.

ARTICLE 5
PAYMENTS TO THE ARCHITECT

5.1. Payments on account of Landscape Architect's Basic Services shall be made monthly in proportion to the degree of completion of each Phase, but shall not exceed the following percentages of the Basic Fee at the completion and approval of each Phase of the work:

Schematic Design Phase	15%
Design Development Phase	35%
Construction Documents	75%
Bidding Phase	80%
Construction Phase (periodic payments based upon percentage of construction completed)	100%

5.2. Payments for authorized Reimbursable Expenses and Additional Services for Landscape Architect, as referred to above, shall be made following presentation, review and approval of the Landscape Architect's detailed invoice in triplicate.

5.3. No **deduction** shall be made from Landscape Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to Contractors.

5.4. No **addition** shall be made to Landscape Architect's compensation based upon Project construction claims, whether paid by City or denied.

5.5. If any work designed or specified by Landscape Architect during any Phase is abandoned or suspended, in whole or in part, Landscape Architect is to be paid for the services performed on account of it prior to receipt of written notice from the City through its Director of such abandonment or suspension.

5.6. Landscape Architect's invoices to City shall provide complete information and documentation to substantiate Landscape Architect's charges, and shall be in a form to be specified by Director. All payments to Landscape Architect shall be made on the basis of the invoices submitted by Landscape Architect and approved by Director. Such invoices shall conform to the schedule of services and costs in connection therewith set out hereinabove. All Reimbursable Expenses shall be clearly shown. Should additional backup material be requested by the Director, Landscape Architect shall comply promptly with the request.

5.7. City may review any and all of the services performed by Landscape Architect under this Contract. City is granted the right to audit, at City's election, all of Landscape Architect's records and billings relating to the performance of this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City's rights as may be disclosed by an audit under this section. Landscape Architect agrees to retain the records for a minimum of three (3) years following completion of this Contract.

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5.8. City reserves the right to correct any error that may be discovered in any invoice that may have been paid to Landscape Architect and to adjust the same to meet the requirements of the Contract. Following approval of invoices, City will endeavor to pay Landscape Architect promptly, but not later than the time period required under the Texas Prompt Payment Act; however, under no circumstances shall Landscape Architect be entitled to receive interest on payments which are late because of a good faith dispute between Landscape Architect and City or because of amounts which City has a right to withhold under this Contract or state law.

5.9. City may, at its option, offset any amounts due and payable under this Contract against any debt (including taxes) lawfully due to City from Landscape Architect, regardless of whether the amount due arises pursuant to the terms of this Contract or otherwise and regardless of whether or not the debt due to City has been reduced to judgment by a court.

ARTICLE 6
ARCHITECT'S ACCOUNTING RECORDS

6.1. Records of Landscape Architect's Consultant and Reimbursable Expenses pertaining to the Project, and records of all other accounts between City and Landscape Architect shall be kept on the basis of generally accepted accounting principles and shall be available to City or its authorized representatives at mutually convenient times.

ARTICLE 7
TERMINATION, DEFAULT, TIME OF THE ESSENCE, AND FORCE MAJEURE

7.1. City, acting through the Director, may at its option and without prejudice to any other remedy City may be entitled to at law, in equity, or elsewhere under this Contract terminate further work under this Contract in whole or in part for failure to appropriate funds, cause or for the convenience of City by giving at least fifteen (15) days advance written notice of termination to Landscape Architect, with the understanding that all performance being terminated shall cease as of a date to be specified in the notice. City also has the right to request, at its option, that Landscape Architect assign and transfer to City all of Landscape Architect's rights and obligations under existing subconsultant contracts it has to perform Project work in the event of termination under this Section. City shall equitably compensate Landscape Architect in accordance with the terms of this Contract for Project work properly performed prior to the date of termination specified in the notice, following review and acceptance of same by the Director. Landscape Architect shall not, however, be entitled to lost or anticipated profits should City choose to exercise its option to terminate this Contract. All plans, field surveys, maps, cross sections and other data, designs and work related to the Project shall become the property of City upon termination of this Contract, and shall be promptly delivered to City in a reasonably organized form without restriction on future use. Should City subsequently contract with a new Landscape Architect for continuation of services on the Project, Landscape Architect shall cooperate in providing information.

7.2. Nothing contained in paragraph 7.1 above shall require City to pay for any work which is unsatisfactory as determined by the Director or which is not submitted in compliance with the terms of this Contract. City shall not be required to make any payments to Landscape Architect

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when Landscape Architect is in default under this Contract, nor shall this Article constitute a waiver of any right, at law and at equity, which City may have if Landscape Architect is in default, including the right to bring legal action for damages or to force specific performance of this Contract.

7.3. Landscape Architect understands and agrees that time is of the essence of this Contract. Any failure of Landscape Architect to complete the services for each phase of this Contract within the agreed Project Performance Schedule will constitute a material breach of this Contract. Landscape Architect shall be fully responsible for its delays or for failures to use its best efforts in accordance with the terms of this Contract. Where damage is caused to City due to Landscape Architect's failure to perform in these circumstances, City may withhold, to the extent of such damage, Landscape Architect's payments owed under this Contract without waiver of any of City's additional legal rights or remedies.

7.4. Neither City nor Landscape Architect shall be deemed in violation of this Contract if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible or circumstances beyond its control. However, notice of such impediment or delay in performance must be timely given in writing, and all reasonable efforts undertaken to mitigate its effects.

ARTICLE 8
OWNERSHIP OF DOCUMENTS

8.1. All Plans and drawings will be prepared and submitted by Landscape Architect to City for approval on a minimum 24-inch by 36-inch or maximum 32-inch by 42-inch drafting sheets, with all lettering processed in ink or pencil and clearly legible when the sheets are reproduced and reduced to half size.

8.2. All Landscape Architect's designs and work product under this Contract including, but not limited to, Tracings, Drawings, Estimates, Specifications, Investigations, Studies and other documents, completed or partially completed, shall be the property of the City, to be used as City desires, without restriction on future use; by execution of this Contract and in consideration of the fee for services to be paid under the Contract, Landscape Architect hereby conveys, transfers and assigns to City all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the Project designs and work product developed under this Contract. Copies may be retained by Landscape Architect. Landscape Architect shall be liable to City for any loss or damage to any such documents while they are in the possession of or while being worked upon by the Landscape Architect or anyone connected with Landscape Architect, including agents, employees, consultants or subcontractors. All documents so lost or damaged shall be replaced or restored by Landscape Architect without cost to City.

8.3. Upon completion of the construction of the Project, Landscape Architect shall, within thirty (30) calendar days following final inspection, deliver to City the reproducible Record Drawings and Record Specifications as previously described in Section 1.1.26 hereinabove. In

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addition, Landscape Architect shall submit originals of all documents listed under Section 8.2, modified to actual as-built conditions.

8.4. Landscape Architect shall have no liability for changes made to the drawings by other architects subsequent to the completion of the Project. Any such change shall be sealed by the architect making that change and shall be appropriately marked to reflect what was changed or modified.

ARTICLE 9
RESPONSIBILITY FOR WORK; INDEMNIFICATION; INSURANCE

9.1. Approval by the City shall not constitute nor be deemed a release of the responsibility and liability of Landscape Architect, its employees, subcontractors, agents and consultants for the accuracy and competency of their Designs, Working Drawings, Specifications or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by the City for any defect, error or omission in the Designs, Working Drawings, and Specifications or other documents prepared by Landscape Architect, its employees, subcontractors, agents and consultants.

9.2. A. LANDSCAPE ARCHITECT AGREES TO INDEMNIFY AND HOLD CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, TO THE EXTENT THAT THE DAMAGE IS CAUSED BY OR RESULTS FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE LANDSCAPE ARCHITECT OR THE LANDSCAPE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE LANDSCAPE ARCHITECT EXERCISES CONTROL THAT MAY ARISE OUT OF OR BE OCCASIONED BY LANDSCAPE ARCHITECT'S NEGLIGENCE OR BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, OR BY ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES OR SUBCONSULTANTS, IN THE PERFORMANCE OF THIS CONTRACT.

B. LANDSCAPE ARCHITECT AGREES TO DEFEND CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, TO THE EXTENT THAT THE DAMAGE IS CAUSED WHOLLY OR PARTLY BY OR RESULTS FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE LANDSCAPE ARCHITECT OR THE LANDSCAPE ARCHITECT'S AGENT, CONSULTANT UNDER

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CONTRACT, OR ANOTHER ENTITY OVER WHICH THE LANDSCAPE ARCHITECT EXERCISES CONTROL THAT MAY ARISE OUT OF OR BE OCCASIONED BY LANDSCAPE ARCHITECT'S NEGLIGENCE OR BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, OR BY ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES OR SUBCONSULTANTS, IN THE PERFORMANCE OF THIS CONTRACT. LANDSCAPE ARCHITECT AGREES TO PROVIDE FOR THE REIMBURSEMENT OF CITY'S REASONABLE ATTORNEY'S FEES IN PROPORTION TO LANDSCAPE ARCHITECT'S LIABILITY.

C. THE INDEMNITY PROVIDED FOR IN SECTION 9.2B SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE OR PARTIAL NEGLIGENCE, BREACH OR FAULT OF CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE LANDSCAPE ARCHITECTS. IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OF BOTH LANDSCAPE ARCHITECT AND CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSE OF THE PARTIES UNDER TEXAS LAW. LANDSCAPE ARCHITECT AGREES TO PROVIDE FOR THE REIMBURSEMENT OF CITY'S REASONABLE ATTORNEY'S FEES IN PROPORTION TO LANDSCAPE ARCHITECT'S LIABILITY.

D. THE OBLIGATIONS UNDER THIS SECTION 9.2 SHALL NOT BE LIMITED IN ANY WAY BY THE LIMITS OF ANY INSURANCE COVERAGE OR ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY, FOR OR TO LANDSCAPE ARCHITECT OR ANY SUBCONTRACTOR, SUPPLIER OR ANY OTHER INDIVIDUAL OR ENTITY UNDER ANY INSURANCE POLICY, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFITS ACTS.

E. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES TO THIS CONTRACT AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

F. LANDSCAPE ARCHITECT AND CITY ACKNOWLEDGE AND AGREE THAT THE PROVISIONS OF THIS SECTION 9.2 SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THE TERM OF THIS CONTRACT.

9.3 A. LANDSCAPE ARCHITECT AGREES TO DEFEND CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, AGAINST A CLAIM THAT ANY OF THE DESIGNS, PLANS OR SPECIFICATIONS PREPARED BY LANDSCAPE ARCHITECT, ITS EMPLOYEES, ASSOCIATES OR SUBCONSULTANTS, PURSUANT TO THIS CONTRACT INFRINGE A U.S. PATENT OR COPYRIGHT DIRECTLY, INDIRECTLY OR CONTRIBUTORILY, TO THE EXTENT THAT THE PATENT OR COPYRIGHT INFRINGEMENT IS CAUSED WHOLLY OR PARTLY BY OR RESULTS FROM AN

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ACT OF NEGLIGENCE OR INTENTIONAL TORT OF THE LANDSCAPE ARCHITECT, ITS OFFICERS, AGENTS AND EMPLOYEES. LANDSCAPE ARCHITECT AGREES TO PROVIDE FOR THE REIMBURSEMENT OF CITY'S REASONABLE ATTORNEY'S FEES IN PROPORTION TO LANDSCAPE ARCHITECT'S LIABILITY.

B. LANDSCAPE ARCHITECT AGREES TO COMPLETELY INDEMNIFY CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, AGAINST A CLAIM THAT ANY OF THE DESIGNS, PLANS OR SPECIFICATIONS PREPARED BY LANDSCAPE ARCHITECT, ITS EMPLOYEES, ASSOCIATES OR SUBCONSULTANTS, PURSUANT TO THIS CONTRACT INFRINGE A U.S. PATENT OR COPYRIGHT DIRECTLY, INDIRECTLY OR CONTRIBUTORILY, REGARDLESS OF WHETHER OR NOT CITY IS PROVEN TO HAVE ACTIVELY INDUCED OR CONTRIBUTED TO THE INFRINGEMENT. LANDSCAPE ARCHITECT WILL PAY ANY AND ALL RESULTING COSTS, DAMAGES AND ATTORNEY'S FEES FINALLY AWARDED, PROVIDED THAT:

(1) CITY PROMPTLY NOTIFIES LANDSCAPE ARCHITECT IN WRITING OF THE CLAIM; AND

(2) LANDSCAPE ARCHITECT HAS SOLE CONTROL OF THE DEFENSE AND ALL RELATED SETTLEMENT NEGOTIATIONS.

C. IF LANDSCAPE ARCHITECT DEFENDS CITY AGAINST SUCH CLAIMS, THE CITY ATTORNEY OF CITY SHALL BE KEPT INFORMED OF SETTLEMENT NEGOTIATIONS, AND SHALL EXECUTE ANY SETTLEMENT AGREEMENT REACHED BY LANDSCAPE ARCHITECT ON CITY'S BEHALF.

D. LANDSCAPE ARCHITECT'S DEFENSE AND INDEMNIFICATION UNDER THIS SECTION IS CONDITIONED ON CITY'S AGREEMENT THAT IF ANY OF THE DESIGNS, PLANS OR SPECIFICATIONS, BECOME, OR IN LANDSCAPE ARCHITECT'S OPINION ARE LIKELY TO BECOME, THE SUBJECT OF SUCH A CLAIM, CITY WILL PERMIT LANDSCAPE ARCHITECT, AT LANDSCAPE ARCHITECT'S OPTION AND EXPENSE, EITHER TO PROCURE THE RIGHT FOR CITY TO CONTINUE USING THE DESIGNS, PLANS OR SPECIFICATIONS OR TO REPLACE OR MODIFY THE SAME SO THAT THEY BECOME NON-INFRINGEMENT; AND IF NEITHER OF THE FOREGOING ALTERNATIVES IS AVAILABLE ON TERMS WHICH ARE REASONABLE IN LANDSCAPE ARCHITECT'S JUDGMENT, CITY, TO THE EXTENT CITY IS LEGALLY ABLE TO DO SO, WILL CEASE USING THE DESIGNS, PLANS OR SPECIFICATIONS ON WRITTEN REQUEST OF LANDSCAPE ARCHITECT, IN WHICH INSTANCE CITY HAS THE SOLE OPTION TO EITHER REQUIRE LANDSCAPE ARCHITECT TO PERFORM NEW DESIGN WORK AT ARCHITECT'S SOLE EXPENSE, OR TO TERMINATE THIS CONTRACT.

E. LANDSCAPE ARCHITECT HAS NO LIABILITY UNDER THIS SECTION FOR ANY CLAIM OF INFRINGEMENT BASED UPON AN INTENTIONAL

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TORT OR NEGLIGENT MODIFICATION OR ALTERATION OF THE DESIGNS, PLANS OR SPECIFICATIONS PREPARED UNDER THIS CONTRACT SUBSEQUENT TO THE PROJECT BY CITY, OR BY ANY ARCHITECTURAL CONSULTANT SUBSEQUENTLY EMPLOYED BY CITY.

F. THE FOREGOING STATES THE ENTIRE OBLIGATION OF LANDSCAPE ARCHITECT WITH RESPECT TO INFRINGEMENT OF PATENTS AND COPYRIGHTS.

G. LANDSCAPE ARCHITECT AND CITY ACKNOWLEDGE AND AGREE THAT THE PROVISIONS OF THIS SECTION 9.3 SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THE TERM OF THIS CONTRACT.

9.4 Landscape Architect shall procure, pay for, and maintain during the term of this Contract, with a company authorized to do business in the State of Texas and otherwise acceptable to City, the minimum insurance coverage contained in **Exhibit B**, attached to and made a part of this Contract. Landscape Architect must name City, its officers, agents and employees as an additional insured under Landscape Architect's general liability insurance policy and provide any defense provided by the policy.

9.5 Approval, disapproval or failure to act by City regarding any insurance supplied by Landscape Architect or its subconsultants shall not relieve Landscape Architect of full responsibility or liability for damages, errors, omissions or accidents as set forth in this Contract. The bankruptcy or insolvency of Landscape Architect's insurer or any denial of liability by Landscape Architect's insurer shall not exonerate Architect from the liability or responsibility of Landscape Architect set forth in this Contract.

9.6 Landscape Architect and City acknowledge and agree that the provisions of this Article 9 shall survive the termination or expiration of the term of this Contract.

ARTICLE 10
ASSIGNMENT

10.1. This Contract provides for unique professional services. Landscape Architect, therefore, shall not assign, transfer, or convey its interest or rights in the Contract, or any claim or cause of action related thereto, in whole or in part, without the prior written consent of the Director.

ARTICLE 11
COMPLIANCE WITH LAWS AND REGULATIONS

11.1. This Contract is entered into subject to and controlled by the Charter and ordinances of the City of Dallas, as amended, and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. Landscape Architect shall, during the course of performance of this Contract, comply with all applicable City codes and ordinances, as amended, all applicable State and Federal laws, as amended, and with all applicable rules and regulations promulgated by all local, State, and national boards, bureaus, and agencies.

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11.2. Landscape Architect will pay all taxes, if any, required by law arising by virtue of the services performed under this Contract. City is qualified for exemption from sales and use taxation pursuant to the provisions of Section 151.309 of the Texas Limited Sales, Excise, and Use Tax Act.

11.3 In accordance with Texas Government Code Chapter 469 – Elimination of Architectural Barriers, as amended, Landscape Architect shall submit copies of all design development documents to the Texas Department of Licensing and Regulation (TDLR) in Austin, Texas for approval *prior* to their submission to City for projects where the construction budget for the pedestrian elements is \$50,000 or greater. The plans shall be submitted to the TDLR within the time period specified in Section 469.102(b). Landscape Architect shall submit proof of the submission to the TDLR at the time the plans are submitted to the City. Upon completion of the Project, Landscape Architect shall arrange for the inspection of the facility for compliance with the Act. Landscape Architect shall be liable for any fines assessed to the City due to Landscape Architect's failure to arrange for the final inspection.

ARTICLE 12

EQUAL EMPLOYMENT OPPORTUNITY/NONDISCRIMINATION

12.1. A. Landscape Architect shall not discriminate against any employee or applicant for employment because of race, age, color, ancestry, national origin, place of birth, religion, sex, sexual orientation, gender identity and expression, military or veteran status, genetic characteristics, or disability unrelated to job performance. Landscape Architect shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, age, color, ancestry, national origin, place of birth, religion, sex, sexual orientation, gender identity and expression, military or veteran status, genetic characteristics, or disability unrelated to job performance. This action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. Landscape Architect shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. Landscape Architect agrees to post in conspicuous places a notice, available to employees and applicants, setting forth the provisions of this non-discrimination clause.

B. Landscape Architect shall, in all solicitations or advertisements for employees placed by or on behalf of Landscape Architect, state that all qualified applicants will receive consideration for employment without regard to race, age, color, ancestry, national origin, place of birth, religion, sex, sexual orientation, gender identity and expression, military or veteran status, genetic characteristics, or disability unrelated to job performance.

C. Landscape Architect shall furnish all information and reports required by the City Manager or his designee and shall permit the City Manager or his designee to investigate its payrolls and personnel records which pertain to current contracts with City for purposes of ascertaining compliance with this equal employment opportunity clause.

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D. Landscape Architect shall file compliance reports with City as may be required by the City Manager or his designee. Compliance reports must be filed within the time, must contain information as to the employment practices, policies, programs, and statistics of Landscape Architect, and must be in the form that the City Manager or his designee prescribes.

E. If Landscape Architect fails to comply with the equal employment opportunity provisions of this Contract, it is agreed that City at its option may do either or both of the following:

- (1) Cancel, terminate or suspend this Contract in whole or in part;
- (2) Declare Landscape Architect ineligible for further City contracts until it is determined to be in compliance.

ARTICLE 13
NOTICE OF CONTRACT CLAIM

13.1. This Contract is subject to the provisions of Section 2-86 of the Dallas City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Section 2-86 of the Dallas City Code, as amended, is expressly incorporated by reference and made a part of this Contract as if written word for word in this Contract. Landscape Architect shall comply with the requirements of this ordinance as a precondition of any claim relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

ARTICLE 14
INDEPENDENT CONTRACTOR

14.1. Landscape Architect's status shall be that of an independent contractor. Except in the course and for the sole purpose of Project construction contract administration, Landscape Architect shall not be considered an agent or representative of City in the performance of services under this Contract. Landscape Architect shall exercise independent judgment in performing services under this Contract and is solely responsible for setting working hours, scheduling or prioritizing the work flow and determining how the work is to be performed. Notwithstanding the above, no term or provision of this Contract or act of Landscape Architect in the performance of this Contract shall be construed as making Landscape Architect an employee of City, or making Landscape Architect or any of its employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which City provides its employees.

ARTICLE 15
VENUE AND GOVERNING LAW

15.1. The obligations of the parties to this Contract shall be performable in Dallas County, Texas, and if legal action is necessary in connection with or to enforce rights under this Contract, exclusive venue shall lie in Dallas County, Texas.

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15.2. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

ARTICLE 16
NOTICES

16.1. Except as otherwise provided in Article 13, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If intended for City, to:

_____, Director
City of Dallas
_____ Department
1500 Marilla Street, Room ____
Dallas, Texas 75201

If intended for Landscape Architect, to:

ARTICLE 17
TERM

17.1. Unless sooner terminated in accordance with the applicable provisions of this Contract, or extended by supplemental agreement approved by both parties, the term of this Contract shall be from the date of its execution until final completion of the Project and all architectural/engineering and construction administration services in connection therewith, including the final one (1) year warranty inspection and resolution of any outstanding Project-related claims or disputes.

17.2. Landscape Architect understands that the Project Performance Schedule is of critical importance, and agrees to undertake all necessary efforts to expedite the performance of services required under this Contract, so that construction of the Project will be commenced as scheduled. In this regard, Landscape Architect shall proceed with sufficient qualified personnel and consultants necessary to fully and timely accomplish all services required under this Contract in the highest professional manner.

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ARTICLE 18

FINANCIAL INTEREST PROHIBITED; CONFLICT OF INTEREST; CONFIDENTIALITY

18.1. Landscape Architect covenants and represents that Landscape Architect, its officers, employees, agents, consultants and subconsultants will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that will be recommended or required for the construction of the Project.

18.2. Landscape Architect understands that the Charter of the City of Dallas provides that no officer or employee of the City shall have any financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee. Any violation of this prohibition shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his office or position with the City. Any violation of this prohibition with knowledge, express or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the City Council.

18.3 Landscape Architect and its employees, agents or associates are required to make regular, timely, continual and full disclosures to the Director of all significant outside interests and responsibilities that may give rise to a direct or indirect conflict of interest, including, but not limited to, any and all significant outside interests and responsibilities that could reasonably be expected to impair independence of judgment in Landscape Architect's performance of all of the services under this Contract. Such disclosures must be made no later than ten (10) days following the event giving rise to the potential or actual conflict of interest for the duration of the Contract term. A potential or actual conflict of interest exists when commitments and obligations to the City or widely recognized professional norms are likely to be compromised in Landscape Architect's performance of its duties under this Contract by the existence of Landscape Architect's other professional relationships, contracts, obligations, or commitments. Failure to disclose such a conflict of interest may result in the City's immediate termination of this Contract by the City Manager.

18.4. Landscape Architect's reports, evaluations, designs, drawings, data, and all other documentation and work developed by Landscape Architect hereunder shall be kept confidential, and shall not be disclosed to any third parties without the prior written consent and approval of the City's Director.

ARTICLE 19

GIFT TO PUBLIC SERVANT

19.1 City may terminate this Contract immediately if Landscape Architect has offered, conferred or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

19.2 For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the

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beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

19.3 Notwithstanding any other legal remedies, City may require Landscape Architect to remove any employee of Landscape Architect from the Project who has violated the restrictions of this Article or any similar state or federal law, and obtain reimbursement for any expenditures made to Landscape Architect as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

ARTICLE 20
SEVERABILITY

20.1. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Contract.

ARTICLE 21
COUNTERPARTS

21.1. This Contract may be executed, including electronically, in one or more counterparts, each of which when so executed shall be deemed to be an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed.

ARTICLE 22
MISCELLANEOUS

22.1. Pursuant to Section 2270.002, Texas Government Code, the Landscape Architect hereby (i) represents that it does not boycott Israel, and (ii) subject to or as otherwise required by applicable federal law, including without limitation 50 U.S.C. Section 4607, agrees it will not boycott Israel during the term of the Agreement. As used in the immediately preceding sentence, "boycott Israel" shall have the meaning given such term in Section 2270.001, Texas Government Code.

22.2. The Landscape Architect hereby represents that (i) it does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, "foreign terrorist organization" shall have the meaning given such term in Section 2252.151, Texas Government Code.

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ARTICLE 23
CERTIFICATION OF EXECUTION

24.1 The person or persons signing and executing this Contract on behalf of Landscape Architect, or representing themselves as signing and executing this Contract on behalf of Landscape Architect, do hereby warrant and certify that he, she or they have been duly authorized by Landscape Architect to execute this Contract on behalf of Landscape Architect and to validly and legally bind Landscape Architect to all terms, performances and provisions herein set forth.

ARTICLE 24
ENTIRE AGREEMENT; NO ORAL MODIFICATION

25.1. This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

[Remainder of this page left intentionally blank. Signatures appear on the following page.]

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IN WITNESS WHEREOF, the CITY OF DALLAS has caused this Contract to be signed in its name by its City Manager, duly authorized to execute the same in its behalf by Resolution No. _____, approved by the City Council on _____, 20____, and has been signed by Landscape Architect, signing by and through its duly authorized representatives, thereby binding both parties, their successors, assigns and representatives for the faithful and full performance of the terms and provisions of this Contract.

APPROVED AS TO FORM:
LARRY E. CASTO
City Attorney

CITY OF DALLAS
T. C. BROADNAX
City Manager

BY _____
Assistant City Attorney

BY _____
Assistant City Manager

LANDSCAPE ARCHITECT:

a _____ corporation

BY _____

PRINTED
NAME _____

TITLE _____

THE TEXAS BOARD OF ARCHITECTURAL
EXAMINERS, P.O. BOX 12337, AUSTIN,
TEXAS 78711-2337, OR 333 GUADALUPE,
SUITE 2-350, AUSTIN, TEXAS 78701-3942, (512)
305-9000, HAS JURISDICTION OVER
COMPLAINTS REGARDING THE
PROFESSIONAL PRACTICES OF PERSONS
REGISTERED AS ARCHITECTS IN TEXAS.